

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA**

**NOTICE OF ELECTRONIC AVAILABILITY OF CASE FILE INFORMATION OVER THE
INTERNET, ENACTMENT OF THE E-GOVERNMENT ACT OF 2002, FEDERAL RULES OF
BANKRUPTCY PROCEDURE, OFFICIAL BANKRUPTCY FORMS AND LOCAL
BANKRUPTCY RULE REVISIONS REGARDING PRIVACY AND PUBLIC ACCESS**

NOTICE hereby is given to advise the bar, litigants and the public about the electronic availability of public records over the Internet via WebPACER¹ and the implementation of the Case Management/Electronic Case Filing (CM/ECF) system in the bankruptcy courts. *NOTICE further is given of* information regarding action taken by the Judicial Conference of the United States to promulgate a policy on privacy and public access to electronic case files, the recent enactment of the E-Government Act of 2002, changes to the Federal Rules of Bankruptcy Procedure and revisions to the Official Bankruptcy Forms regarding privacy and public access, as follows:

1. With limited exceptions, 11 U.S.C. § 107(a) provides that documents in bankruptcy cases and dockets maintained by the clerk's office are public records. These records are open for examination by any entity at reasonable times in the clerk's office without charge.
2. Under the CM/ECF system, the full text of documents, whether filed electronically via the Internet or on computer diskette or conventionally in paper form and scanned (*i.e.*, imaged) into the CM/ECF system database, including documents in adversary proceedings and court orders, may be viewed via the Internet by any entity with a PACER Service Center subscription login and password. Any subscriber to WebPACER, including any CM/ECF registered participant, will be able to read, download, store and print the full content of electronic documents. The clerk's office will not make documents available electronically that have been sealed or otherwise restricted by court order.
3. The Judicial Conference of the United States has adopted a policy on privacy and public access to electronic case files. For additional information on the Judicial Conference's privacy and public access policy, you can access the U.S. Court's web site at <http://www.privacy.uscourts.gov/>. You should not include sensitive information in any document filed with the court unless such inclusion is required by the Federal Rules of Bankruptcy Procedure or Official Bankruptcy Forms or the inclusion is otherwise necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via WebPACER. If sensitive information must be included, the following personal data identifiers must be partially redacted from the pleading, unless specifically required by statute, Federal Rule of Bankruptcy Procedure or Official Bankruptcy Form, whether it is filed traditionally (*i.e.*, conventionally by paper) or electronically: Social Security numbers, financial account numbers, dates of birth and the names of minor children.
4. As provided for in Local Bankruptcy Rule 5005-1(G), effective January 1, 2004:

In compliance with the E-Government Act of 2002, a party wishing to file a document containing personal data identifiers listed above may file an unredacted document under seal. The document shall be accompanied by a request that the document be filed under seal pursuant to paragraph (G) of this rule. This document shall be retained by the court as part of the record. Except as the presiding judge in a case otherwise may direct, the party shall file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk will not review each document for compliance with this rule.

¹ WebPACER is the judiciary's electronic public access system that allows subscribers to obtain case information from the federal courts through the Case Management/Electronic Case Filing (CM/ECF) system in the bankruptcy courts. Subscribers are charged a fee to access public record case information. You can visit the court's CM/ECF Home Page at <http://www.vaeb.uscourts.gov/ecfnew/ecf.htm> for additional information regarding the creation of a PACER account.

5. In addition, you should exercise caution when filing documents that contain the following:

- (a) Personal identifying number, such as a driver's license;
- (b) Medical records, treatment and diagnosis;
- (c) Employment history;
- (d) Individual financial information²; and
- (e) Proprietary or trade secret information.

6. Effective December 1, 2003³, in compliance with amendments to Federal Rules of Bankruptcy Procedure 1005, 1007 and 2002, and Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C and 19, personal data identifiers such as Social Security numbers⁴, financial account numbers⁵, dates of birth and the names of minor children, as required, must be redacted from all pleadings by filers, whether filed electronically or by conventional means. The new versions of the identified bankruptcy official forms must be used effective December 1, 2003. For additional information, you can access the U.S. Courts' web site at <http://www.uscourts.gov/rules/index.html>. Click on "Pending Rules Amendments Awaiting Final Action" button located in the upper left-hand corner of the screen; then select "Amendments Submitted to the Congress." Interested persons also may select "Amendments Submitted to the Judicial Conference (Sept. 2002)." A summary of the bankruptcy rule changes and official form revisions is available by accessing the Court's Internet web site at <http://www.vaeb.uscourts.gov> and clicking the "Local Rules" button; then selecting the *Clerk's Notice of Proposed Amendments and Additions to the Federal Rules of Bankruptcy Procedures and Revisions to Official Bankruptcy Forms Effective December 1, 2003*, dated October 9, 2003.

The clerk's office is not responsible for redacting any information from petitions, pleadings or other papers regardless of the means by which such filings are effected.

7. Counsel is strongly encouraged to share this notice with all clients so that an informed decision about the inclusion of certain materials may be made. The Court is not responsible redacting the Social Security number or other personal data identifiers from documents filed with the Court. Accordingly, the United States trustee, United States attorney, case and standing trustees, attorneys and others should review notices, reports and other materials prepared in their respective offices, whether in paper or electronic form, which regularly become part of the case file, for appropriate modification consistent with changes in the rules and forms as described and referenced in this notice.

Date: December 24, 2003

WILLIAM C. REDDEN
CLERK OF COURT

Ver. 12/19/03

² Pursuant to Local Bankruptcy Rule 5005-1(G)(4), "If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Form 6, debtors, if they choose, may include their full account numbers to assist the trustee and creditors."

³ On March 27, 2003, the Supreme Court of the United States approved various amendments to the Federal Rules of Bankruptcy Procedure (FRBP) as recommended to the Supreme Court by the Judicial Conference of the United States. The chief justice transmitted the amendments to Congress on that date. The amendments to FRBP 1005, 1007 and 2002, these rule changes became effective on December 1, 2003.

⁴ New FRBP 1007(f) requires that an individual debtor "submit" to the court a statement under penalty of perjury setting out the debtor's full Social Security number, or stating that the debtor does not have a Social Security number. The rule requires that the debtor submit the statement with the petition. A new Bankruptcy Official Form 21, "Statement of Social Security Number(s)," was approved by the Judicial Conference of the United States when it met in September 2003. Because the new statement must be "submitted" rather than "filed," it will not be part of the case file available to the parties, bar and public. Bankruptcy CM/ECF Version 2.3 complies with the privacy requirements. Information regarding the submission mechanism for Bankruptcy Official Form 21 previously was released by the clerk's office in a notice dated October 31, 2003, which advises the public and bar of the Court's entry of Standing Order No. 03-7. Also, Local Bankruptcy Rule 1007-1(I)(2), effective December 1, 2003, provides that "[i]n a voluntary case, if the required statement of social security number is not submitted at the time of filing of the voluntary petition, the Clerk shall enter an order of dismissal unless the same statement is submitted in the required format no later than one (1) business day after the filing of the petition." Revised Bankruptcy Official Form 9, for all chapters, includes only the last four digits of the debtor's Social Security number. That version of the form, with the redacted number, will become part of the official case file. Creditors and other notice recipients will receive the same form except for the contents of the Social Security number box, which will provide the full number as required by FRBP 2002(a)(1).

⁵ See Footnote 2 above.